

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER ROBERT LUTE,

Plaintiff,

v.

E. SILVA, et al.,

Defendants.

Case No. 1:20-cv-01122-ADA-CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS CLAIM
TWO OF PLAINTIFF'S SECOND AMENDED
COMPLAINT

(ECF No. 27)

Plaintiff Christopher Robert Lute is proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 16, 2023, the assigned Magistrate Judge issued findings and recommendations following screening of the second amended complaint, recommending that this action proceed on Plaintiff's Eighth Amendment excessive force claims against Defendants Moreno, Randolph, Romero, and Valladolid. (ECF No. 27.) It was further recommended the remaining claims in Plaintiff's Second Amended Complaint be dismissed. (*Id.* at 8.) The Magistrate Judge provided Plaintiff 14 days within which to file any objections to the findings and recommendations. (*Id.*) More than 14 days have elapsed, and no objections have been filed.

//

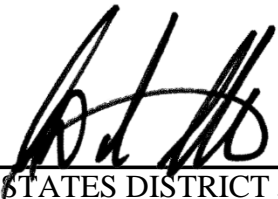
1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
2 *de novo* review of this case. Having carefully reviewed the file, the Court finds the findings and
3 recommendations to be supported by the record and proper analysis.

4 Accordingly, **IT IS HEREBY ORDERED** that:

- 5 1. The findings and recommendations issued on May 16, 2023 (ECF No. 27) are
6 **ADOPTED** in full;
- 7 2. This action shall **PROCEED** on Plaintiff's Eighth Amendment excessive force claims
8 against Defendants Moreno, Randolph, Romero, and Valladolidin (claim one) as alleged
9 in Plaintiff's second amended complaint, brought pursuant to 42 U.S.C. § 1983;
- 10 3. The remaining claims in Plaintiff's Second Amended Complaint are **DISMISSED**;
11 and,
- 12 4. The matter is referred back to the assigned Magistrate Judge for further proceedings.

13
14
15 IT IS SO ORDERED.

16 Dated: June 30, 2023

17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT JUDGE